IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1034 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.M.PANCHAL
and
Hon'ble MR.JUSTICE H.H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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SUPER CHEMICALS

Versus

GUJARAT POLLUTION CONTROL BOARD

Appearance:

1. Special Civil Application No. 1034 of 2001
MR MIHIR H JOSHI for Petitioner No. 1-2
MR HARESH J TRIVEDI for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 1

CORAM : MR.JUSTICE J.M.PANCHAL
and
MR.JUSTICE H.H.MEHTA

Date of decision: 18/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.M.PANCHAL)

Rule. Mr. H.J.Trivedi, learned counsel waives service of notice of rule on behalf of the respondent. Having regard to the facts of the case and in view of the joint request made by the learned counsel for the parties, the petition is taken-up for final disposal today.

2. By means of filing this petition under Article 226 of the Constitution, the petitioners have prayed to issue a writ of mandamus or any other appropriate writ, order or direction to quash and set aside order dated October 11,2000, by which directions have been issued to the petitioners under section 33-A of the Water (Prevention and Control of Pollution) Act, 1974. The petitioners have further prayed to command the respondent to consider and grant the application dated November 20, 2000 for consent submitted by the petitioners under the provisions of the Water (Prevention and Control of Pollution) Act and the Air (Prevention and Control of Pollution) Act without being influenced by the directions of the High Court dated October 21, 1999 given in Special Civil Application No. 4473/97. The petitioners have also prayed to direct the respondent to permit the petitioners to recommence its manufacturing activity and for that purpose, issue any and all direction required for the purpose of the respondent on such terms and conditions as may be found just and proper by the Court.

3. The petitioner no.1 is a registered partnership firm, whereas the petitioner no.2 is a partner thereof. For the purpose of manufacturing victoria blue, the petitioners have set-up industrial unit. It is the case of the petitioners that they have also set-up an effluent treatment plant as per the technical advice received from their consultants. The petitioners requested the respondent to issue 'no objection certificate' for manufacturing victoria blue, which was granted by the respondent on April 10, 1989.Thereafter the petitioners applied for consent under the Water (Prevention and Control of Pollution) Act, 1974 ("the Water Act" for short) by letter dated July 12, 2000. The petitioners also applied for consent under the provisions of the Air (Prevention and Control of Pollution) Act, 1974 ("the Air Act" for short) and also for authorisation under the Hazardous Waste (Management and Handling) Rules, 1989. The necessary consent under the Air Act was granted by the respondent vide order dated May 13, 1999and authorisation under the Hazardous Waste (Management and Handling) Rules, 1989 was granted by letter dated July

11, 2000. However, the consent under the Water Act was rejected by the respondent,inter-alia, on the ground that the treatment facilities provided by the petitioners were inadequate and that the petitioner no.1-Unit was discharging untreated effluent directly in the G.I.D.C. drain. By order dated October 11, 2000, the respondent directed closure of manufacturing process and also operation of the industrial plant of the petitioners under section 33-A of the Water Act till consent of the respondent-Board was obtained and adequate treatment plant was installed and efficiently operated. Further the respondent also directed the concerned authorities to stop supply of electricity and water till such time. The petitioners have stated that to ensure adequate treatment and discharge of effluent, the petitioner-Unit had applied to the Bharuch Eco-Aqua Infrastructure Ltd. for registration as member for discharge of effluent through the common pipeline for treatment at the common effluent treatment plant and the petitioners have also upgraded their effluent treatment plant by constructing a collection tank and installing an aerator. The petitioners reapplied for consent under the Water Act vide application dated November 20, 2000. The petitioners also applied for consent under the Air Act vide application dated November 20, 2000. It is the case of the petitioners that on December 15, 2000, the petitioners by way of an undertaking represented to the respondent to suspend the directions of closure issued on October 11, 2000 and thereafter the Unit of the petitioners was inspected by the respondent on January 23, 2001, but the respondent has not granted consent under the Water Act and the Air Act on the ground that consent cannot be granted in view of the directions given by the High Court on October 21, 1999 in Special Civil Application No. 4473/97. The claim made by the petitioners is that the directions issued by the High Court are not applicable to the Unit of the petitioners and as effluent treatment plant installed by the petitioners is adequate and capable of treating the effluent so as to meet with the prescribed parameter, appropriate directions deserve to be issued to the respondent. Under the circumstances, the petitioners have filed the present petition and claimed reliefs to which reference is made earlier.

4. On service of notice, Mr. R.G.Shah, Environmental Engineer of Gujarat Pollution Control Board,Gandhinagar has filed reply affidavit as well as additional reply affidavit stating, inter-alia, that what is manufactured by the petitioners is a new product and, therefore, the petitioners are not entitled to the

reliefs claimed in the petition.

5. Heard the learned counsel for the parties. Having regard to the facts of the case, directions issued under section 33-A of the Water Act are suspended and the petitioners are permitted to carry on their manufacturing activities in accordance with law. In view of the averments made by the petitioners on oath in Paras 6, 7, 11 & 12 of the petition, the respondent is directed to reconsider the applications submitted by the petitioners for consent under the Air Act and the Water Act in respect of two products specified in the consent granted under the provisions of Air Act, 1981 on May 13, 1999 in accordance with law without being influenced by the directions issued by the High Court on October 21, 1999 in Special Civil Application No. 4473/97. Rule is made absolute to the extent indicated hereinabove, with no orders as to costs.

(J.M.Panchal,J.)

(H.H. Mehta, J.)

(patel)